

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

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WILLIAM T. WALSH, CLERK

IN Re K-DUR ANTITRUST LITIGATION

Civil Action No. 01-1652 (JAG, Jr.)
(Consolidated Cases)

This Document Relates To:

All Actions

MDL Docket No. 1419

[PROPOSED] ORDER APPOINTING SPECIAL MASTER

1. Pursuant to Federal Rule of Civil Procedure 53, and by consent of all parties, the Court hereby appoints Stephen M. Orlofsky as a special master in the above-captioned matter in accordance with the terms set forth in this Order.

2. Judge Orlofsky shall have responsibility to decide, in the first instance, all currently pending and future motions in the above-captioned matter that otherwise would be directed to Judge Greenaway or the Magistrate Judge, through and including discovery disputes, class certification, and summary judgment, except that this appointment shall not apply to any pre-trial conferences or any future motions relating to the trial, if any.

3. Unless otherwise agreed upon by the parties or ordered by Judge Orlofsky, briefing of motions is to comply with the Federal Rules of Civil Procedure, the Local Rules of the District Court for the District of New Jersey, and the December 11, 2001 Case Management Order entered in the above-captioned case. All previously submitted motions or letter motions may be submitted for decision to Judge Orlofsky without refileing them with the Clerk. All other motions or letter motions addressed to Judge Orlofsky shall be filed with the Clerk. All decisions by Judge Orlofsky shall be filed with the Clerk.

4. Judge Orlofsky's decisions on any motion can be appealed to Judge Greenaway in the manner, and subject to the standards of review, set forth in Rule 53 of the Federal Rules of Civil Procedure and applicable Local Rules.

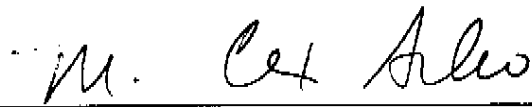
5. In connection with Judge Orlofsky's role as special master pursuant to this Order, the parties shall be bound by the same rules of *ex parte* communications as they would with the Court. Judge Orlofsky shall be entitled to communicate *ex parte* with the Court in his discretion.

6. Judge Orlofsky shall bill his time on this matter at the rate of \$675 per hour. Billing rates of Blank Rome personnel used by Judge Orlofsky shall be at the rates for preferred clients at the office of Blank Rome LLP where that associate or paralegal principally works. Unless expressly otherwise ordered by Judge Orlofsky, Judge Orlofsky's fees and expenses shall be allocated 50% to the plaintiffs and 50% to the defendants; the parties on each side shall attempt to agree among themselves as to the allocation of each side's 50% share and, failing agreement, Judge Orlofsky shall decide. Judge Orlofsky shall bill the parties on a monthly basis. The parties shall have reasonable rights to collectively request further details of those bills.

7. Judge Orlofsky's appointment as special master shall continue until he has disposed of all motions assigned to him as described herein, but in any event shall terminate prior to trial, if any. Any party may petition the Court to have Judge Orlofsky removed as special master only upon a clear and convincing showing.

8. Judge Orlofsky's role as mediator is hereby ended.

IT IS SO ORDERED.



Honorable Madeline Cox Arleo
United States Magistrate Judge

Dated: April 17-06